

SECURITIES AND EXCHANGE COMMISSION  
(Release No. 34-56605; File No. 4-429)

October 3, 2007

Joint Industry Plan; Notice of Filing of Joint Amendment No. 23 to the Intermarket Option Linkage Plan to Permit the Use of Linkage Prior to the Opening of Trading

Pursuant to Section 11A of the Securities Exchange Act of 1934 (the “Act”)<sup>1</sup> and Rule 608 of Regulation NMS thereunder,<sup>2</sup> notice is hereby given that on September 14, 2007, September 19, 2007, August 29, 2007, August 30, 2007, August 29, 2007, and September 26, 2007, American Stock Exchange LLC (“Amex”), Boston Stock Exchange, Inc. (“BSE”), Chicago Board Options Exchange, Incorporated (“CBOE”), International Securities Exchange, Inc. (“ISE”), NYSE Arca, Inc. (“NYSE Arca”), and Philadelphia Stock Exchange, Inc. (“Phlx”) (collectively, “Participants”) respectively submitted to the Securities and Exchange Commission (“Commission”) Joint Amendment No. 23 (“Joint Amendment”) to the Plan for the Purpose of Creating and Operating an Intermarket Option Linkage (the “Linkage Plan”).<sup>3</sup> The Joint Amendment proposes to modify Section 7(a)(i) of the Linkage Plan to permit trading on Linkage prior to the opening of trading. The Commission is publishing this notice to solicit comments from interested persons on the proposed Joint Amendment to the Linkage Plan.

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<sup>1</sup> 15 U.S.C. 78k-1.

<sup>2</sup> 17 CFR 242.608.

<sup>3</sup> On July 28, 2000, the Commission approved a national market system plan for the purpose of creating and operating an intermarket options market linkage proposed by the Amex, CBOE, and ISE. See Securities Exchange Act Release No. 43086 (July 28, 2000), 65 FR 48023 (August 4, 2000). Subsequently, Phlx, Pacific Exchange, Inc. (n/k/a NYSE Arca, Inc.), and BSE joined the Linkage Plan. See Securities Exchange Act Release Nos. 43573 (November 16, 2000), 65 FR 70851 (November 28, 2000); 43574 (November 16, 2000), 65 FR 70850 (November 28, 2000); and 49198 (February 5, 2004), 69 FR 7029 (February 12, 2004).

## I. Description of the Proposed Amendment

The purpose of the Joint Amendment is to amend Section 7(a)(i) of the Linkage Plan to permit the use of Linkage prior to the opening of trading. The Linkage Plan currently does not permit use of Linkage before an exchange opens for trading and disseminates a quotation in an option series. In addition, there is no trade-through protection for opening trades. As a result, if there is a better market away at the time a Participant opens its market, market makers on that Participant cannot access that market for a customer, and the customer could receive a price inferior to the national best bid and offer. The Joint Amendment would allow the sending of Linkage P/A Orders<sup>4</sup> prior to the opening, allowing market makers to access better markets on behalf of customers prior to an exchange's opening.

## II. Implementation of the Plan Amendment

The proposed Joint Amendment to the Linkage Plan will be effective upon approval by the Commission pursuant to Rule 608 of Regulation NMS under the Act.

## III. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed Joint Amendment to the Linkage Plan is consistent with the Act. Comments may be submitted by any of the following methods:

### Electronic comments:

- Use the Commission's Internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an e-mail to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File Number 4-429 on the subject line.

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<sup>4</sup> See Section 2(16)(a) of the Linkage Plan.

Paper comments:

- Send paper comments in triplicate to Nancy M. Morris, Secretary, Securities and Exchange Commission, Station Place, 100 F Street, NE, Washington, DC 20549-1090.

All submissions should refer to Joint Amendment No. 23 to File Number 4-429. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (<http://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed Joint Amendment that are filed with the Commission, and all written communications relating to the proposed Joint Amendment between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing also will be available for inspection and copying at the principal offices of the Amex, BSE, CBOE, ISE, NYSE Arca, and Phlx. All comments received will be posted without change; the Commission does not edit personal identifying information

from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to Joint Amendment No. 23 to File Number 4-429 and should be submitted on or before [insert date 21 days from publication in the Federal Register].

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>5</sup>

Nancy M. Morris  
Secretary

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<sup>5</sup> 17 CFR 200.30-3(a)(29).